

Eric Beal: ZBA Chair Supports Rental Permit Bylaw

By ERIC BEAL

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As a long-time Amherst resident and current chairman of the Amherst Zoning Board of Appeals, I believe that the proposed rental permit bylaw is not only necessary, but long overdue.

Within a few years, there will be hundreds more student rentals. Today, the supply of rental housing does not meet the demand — vacancy rates are low, rents are high — and demand will continue to rise under the university's plan to enroll nearly 3,000 additional students by 2020.

At the same time, with its sky-high home prices and taxes, Amherst has lost nearly 50 percent of its young families since the 1990s when I was a UMass undergrad. Given these trends, student renters, who typically have little knowledge of zoning or health and safety protections, will soon constitute a much larger share of our population.

The increasing number of student renters will further drive up prices, but there's a dark side to a bull market. As demonstrated during the run-up to the Great Recession, firms are more likely to bend — or break — rules during boom times because the expected payoff from flouting regulations is greater. In Amherst's over-heated rental housing market, this means that some owners of rental property will be tempted to ignore health, safety and zoning rules because the expected profits from stuffing students in the basement are now higher than ever. With such fierce competition for apartments, students might feel forced to accept unsafe or illegal living conditions. The rental permit bylaw would deter cheating by educating landlords and tenants and by making scofflaws more likely to be caught and face penalties.

Although existing zoning rules have sharp teeth, they lack the flexibility and scope of the rental permit bylaw. The ZBA reviews most new rental uses and, based on the facts, may deny a special permit for those uses or allow them with conditions. A special permit may be conditioned to expire after a certain term, which requires the owner to prove in a public hearing, with neighbors invited, that the use should continue.

Although conditions like that could address problem properties, the ZBA reviews mostly new applications for rental use, not the thousands of existing rentals. Also, the ZBA, a volunteer board, is already overtaxed, and re-hearing rental-use special permits could delay hearings on important applications for other local businesses. The rental permit bylaw, by contrast, would apply to most existing rentals and would be implemented by salaried professionals. An appeal could be made to a newly established Rental Appeals Board.

Either way — by ZBA special permit term limits or by rental permit — the regulatory landscape for landlords and developers is changing. Thus, it is not a question of new requirements, but of which kind. In my view, a comprehensive rental permit system would be more effective and efficient than periodic ZBA special permit renewal.

Finally, the rental bylaw is good for most owners, who already play by the rules, because it levels the regulatory playing field. In the absence of adequate enforcement, owners who don't maintain their properties and who violate safety regulations and occupancy limits arguably have a competitive advantage; they may invest less in their properties yet enjoy higher rents than law-abiding landlords, a system under which "nice guys finish last."

The rental permit bylaw will force recalcitrant owners to invest in maintenance and will deter over-packing apartments. Thus, all will bear the "costs" of regulatory compliance — making rentals meet fire, safety, health and zoning codes — not just the "nice guys" already doing the right thing.

Amherst needs a rental permitting system. Rentals generate over \$5 million per year, and demographic and housing trends suggest more student rentals and more code violations. Existing regulatory tools are not the best available.

Although the rental permit bylaw cannot cure all that ails us, surely that is no excuse to do nothing.

Eric Beal is chairman of the Amherst Zoning Board of Appeals and a Town Meeting member.